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SUPREME COURT, U.S.
FILED
APR 26 2005
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No. 04-491

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2004

DURAND DICKERSON
PETITIONER

V.

G. RONALD BATES, JR., ET AL.,
RESPONDENTS

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

PETITIONER'S PETITION FOR REHEARING

DURAND DICKERSON
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REASONS FOR REHEARING

This Court on March 30, 2005 in an unanimous decision and opinion in *Exxon Mobil Corporation v. Saudi Basic Industries Corporation,* 544 U.S.____ 2005 stated:

> "The *Rooker-Feldman"* doctrine, we hold today, is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced "**and**" inviting district court review and rejection of those judgments." (Emphasis added).

The pivotal inquiry is whether petitioner seeks to set aside his state-court judgments, or whether he is in fact presenting an independent claim. That is, is the petitioner's federal claim "qualitatively" different than the questions of state law decided by the state-court.

This court in *Exxon Mobil* cited *Pennziol v. Texaco* 481 U.S. 1 (1987) and the concurring opinions of Justice Scalia and Justice Brennan states:

> "*Rooker-Feldman* ..... does not deprive the court of jurisdiction to decide..... Texas procedure;..... not to challenge the merits of the Texas suit."

Petitioner's Writ of Certiorari, page 4 sets forth the "post judgment procedural garnishment of petitioner's funds ..... were fraught with fraud ..... would not

require a finding that the state-court judgment was erroneous." This is supported by (Exhibit F par. 133).

The respondents in their brief page 5 stated:

> "Even if the garnishments are not treated as if they are judgments themselves, Dickerson's attack on the garnishment calls into question the validity of the **underlying** judgment." (Emphasis added).

Petitioner in his Reply Brief page 2 sets forth that he has not challenged how the garnishments were "applied" but the collection process post-judgment citing the overt acts set forth in the writ.

This Court in *Blaisdell v. Rochester, NH* (docket no. 04-1) granted certiorari based upon *Exxon Mobil* for property being taken, even though the respondent used Rooker-Feldman to deprive him of his property.

Petitioner is seeking **prospective** relief in Count IV and Count VII of his Amended Complaint. He does not seek expressly or impliedly to review or overturn any previous state-court decision nor does he seek to stop the enforcement of any previous state-court decision against him in Count IV and VII. Count IV and VII are a separate count in Dickerson's Amended Complaint; it does not incorporate or reference any other counts in Dickerson's Amended Complaint. This does not require the District Court to review the state-court decision. The judgment petitioner seeks is **prospective** and directed toward the rules and procedures for collecting posted

bond funds rather than toward the State of Kansas decisions.

Petitioner does not request the District Court to interfere in any way with the decisions of the Kansas Supreme Court, Kansas Court of Appeals, or Kansas State Courts. Instead, he request monetary damages to correct alleged constitutional defects in the procedural rules applied in taking the bond funds. (See *Holloway v. Arkansas State Board of Architects,* Supreme Court Docket No 04-745 Writ of Certiorari).

Therefore, in this case did the Tenth Circuit Court of Appeals misperceive the narrow ground occupied by *Rooker-Feldman* and consequently erred in dismissing for lack of subject matter jurisdiction pursuant to this Court's opinion in *Exxon Mobil*?

For this reason this Court should rehear petitioner's Writ of Certiorari as to *Exxon Mobil* intervening circumstances and controlling and issue a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

Respectfully submitted,

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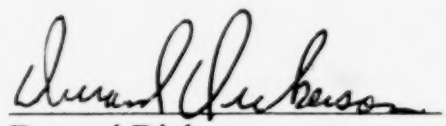
CERTIFICATION

I, Durand Dickerson certifies that the above Petition for Rehearing is presented in good faith by this pro-se petitioner, and not for delay. Sign on this 26th day of April, 2005 under the penalty of perjury, pursuant to 28 U.S.C. 1746(2).



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